

LAW OFFICE OF  
**RUSSELL H. MILLER**

20 PARK ROAD, SUITE E  
BURLINGAME, CALIFORNIA 94010-4443

PHONE: (650) 401-8735  
FAX: (650) 401-8739  
E-MAIL: INFO@MILLERPOLITICALLAW.COM

RUSSELL H. MILLER  
ATTORNEY AT LAW  
RUSS.MILLER@MILLERPOLITICALLAW.COM

KIRK ALAN PESSNER  
SENIOR PARALEGAL & ADMINISTRATOR  
KIRK.PESSNER@MILLERPOLITICALLAW.COM

December 11, 2002

**VIA FACSIMILE 916-322-6440**

Chairman Getman and Commissioners Downey, Knox and Swanson  
Fair Political Practices Commission  
428 J Street  
Sacramento, CA 95814

**RE: Comment on December 13, 2002 Agenda Item #14,  
Proposition 34 Fact Sheet**

Dear Chairman Getman and Commissioners:

We are writing on behalf of our client, Assemblymember Joe Simitian, and his controlled committee, Simitian for State Assembly, ID# 990445, regarding the fact sheet's proposed treatment of pre-2001 funds and the one-time transfer of those funds without attribution.

On Page 6 of the proposed fact sheet, in response to Question #6 of the *Transfers and Carryover* section of the fact sheet, staff has suggested that:

***"The amount that may be transferred without attribution  
must be reduced by amounts spent by the committee  
since January 1, 2001."***

We strongly disagree with the apparent meaning of this proposed response and find it inconsistent with the plain meaning of Government Code Section 85306(b), FPPC Regulation 18536 and telephone advice from the Technical Assistance & Analysis Division, dating back to January 2001.

Based on the plain meaning of Government Code Section 85306(b) allowing the one-time transfer of pre-2001 funds without attribution, the pre-2001 committee of Assemblymember Simitian, Simitian for State Assembly, did the following to preserve pre-2001 funds on hand in the following manner:

1. The cash on hand balance in the campaign account since January 1, 2001, never dropped below the cash on hand balance of December 31, 2000;
2. The committee, subsequent to January 1, 2001, raised additional funds and those newly raised funds were used to pay all subsequent January 1, 2001 expenses.
3. For a period of time, the pre-2001 funds were segregated in a CD account within the committee.

We request that this question be revised to advise filers that if pre-2001 fund balances have not been spent in any way, and that can be demonstrated by records maintained, the affected committee can transfer those pre-2001 funds without attribution into a new committee.

We would suggest that the response to question #6 be revised as follows:

***"The amount that may be transferred without attribution must be reduced by amounts spent by the committee since January 1, 2001, unless it can be shown that the cash on hand balance in the committee never fell below the cash on hand balance on January 1, 2001."***

Sincerely,



Russell H. Miller  
Attorney at Law